THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.12712 OF 2006

DATED: 09-02-2007

BETWEEN

Smt. Polvarapu Kameswari.
W/o. Nagaraju, R/o. Ganganamma
School Opp. House, Western Street,
Eluru, West Godavari District.

...PETITIONER

AND

The Superintendent of Police,
Vijayawada City, Krishna District
and another.

...RESPONDETNS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents in harassing her husband and their family members by visiting their house frequently and calling them to the police station without there being any complaint against them as high handed action and the action of the first respondent in not taking any action of the representation dated 17.06.2006.

2. Counter has been filed stating that no such representation dated 17.06.2006 has been filed before the first respondent and the allegations that the respondents have been harassing her husband and calling their family to the police station have been denied. It is stated that one Seelamsetti Venkata Ramana, Dossier Criminal of Satyanarayanapuram Police Station, Vijayawada was arrested on 15.06.2006 and he made certain confessions about committing offences and selling the stolen property to one Nallapati

Kamal, who is brother of the petitioner. While enquiring the whereabouts of the accused, PC 1054 went to the house of the petitioner and requested their family members to allow him to take rest for some time, as he was not feeling well. It is stated that the husband of the petitioner was never kept in the police station and he was not at all harassed, in fact, the petitioner herself created propaganda in the media against the police constables. Further, it is stated that the enquiry was only made with regard to Cr.Nos.175 and 153 of 2006 of Machavaram Police Station, Cr.No.241 of 2005 of Patamata Police Station and Cr.No.41 of 2006 of I Town Crime Police Station to petitioner's brother, who was involved in the case. It is stated that the arrest of some of the receivers of the stolen property including the brother of the petitioner is yet to be done. The allegation that there is some involvement of the family members of the petitioner and that they were subjected to harassment has been denied. It is stated that they were never called to the to the police station and they were never harassed.

3. I am of the opinion that the disputed questions of fact cannot be decided in a writ petition. However, if there is any illegal and excessive action on the part of the respondents, the petitioner can as well file a private complaint before the concerned Magistrate under the relevant provisions of the Code of Criminal Procedure, 1973, but without taking recourse under the relevant provisions of the Code, the disputed questions fact cannot be gone into in a writ petition.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

February 9, 2007
DSK